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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JEFFREY J., a Person Coming Under
the Juvenile Court Law.

B224497

THE PEOPLE,

(Los Angeles County
Super. Ct. No. FJ45622)

Plaintiff and Respondent,

v.

JEFFREY J.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County,
Robin Miller Sloan, Judge. Affirmed.

Bruce G. Finebaum, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

On June 26, 2009, a petition was filed under Welfare and Institutions Code section 602, alleging that Jeffrey J. committed the misdemeanor of vandalism in violation of Penal Code section 594, subdivision (a). A second petition was filed on April 13, 2010, alleging that appellant committed the crime of second degree robbery, a felony, in violation of Penal Code section 211. Following an adjudication hearing, the juvenile court found the robbery allegations of the April 13, 2010 petition true, sustained the petition, and declared the offense to be a felony. The June 26, 2009 petition was dismissed pursuant to *People v. Harvey* (1979) 25 Cal.3d 754. The court placed appellant in the care, custody and control of the probation officer and ordered suitable placement, with a maximum confinement period of five years, and gave appellant 27 days of predisposition credit. We affirm.

The evidence at the adjudication hearing established the following. On April 10, 2010, around 4:35 p.m., Owen Brown was walking near the intersection of Highland Avenue and Melrose Avenue in Los Angeles County, talking on his cell phone. Brown heard someone running behind him and thought it was a jogger, so he stepped out of the way. Someone jumped on him from behind, knocking him to the ground. Brown started screaming and realized he was being attacked by two or three people.

Brown lifted himself up so the person on his back would fall to the ground, and then he punched that person. Brown then pushed that person away and turned to the next person, trying to separate himself from the attackers so he would not be grabbed from behind again.

Brown “got a clear look” at appellant after separating himself from the other attackers and thought appellant was the person who had been on top of him. Brown continued screaming for help. Two of the attackers ran off, but Brown grabbed appellant and swept his leg behind appellant, causing appellant to fall. Appellant started saying, “I wasn’t with those guys,” but Brown told him he was going to hold him down until the police came and sorted everything out.

The police arrived four to five minutes later and Brown subsequently identified appellant as the person who had jumped him. Brown's neck was sore for about two weeks, but he was not otherwise injured. Brown got his cell phone back that day.

Christine Pazmino testified at the adjudication hearing that she was riding in her car, which was being driven by her husband, when she saw two minors running on the sidewalk. Pazmino thought it was strange because they were wearing street clothes, not running clothes, and she thought they looked scared. Pazmino heard someone yelling, so her husband stopped the car and rolled down the windows. Pazmino saw Brown and heard him yelling, "Somebody help. Call 911. I've been mugged."

Pazmino saw that Brown was "in a scuffle with somebody." She called 911 on her cell phone and told the police what was happening. At the adjudication hearing, Pazmino identified appellant as the person she saw in a scuffle with Brown. The police took Pazmino to identify two young men they had detained, and she identified them as the two people she had seen running away.

Officer Anthony Ramirez was called as a witness by appellant. Officer Ramirez testified that Arturo Estrada, not appellant, was the person detained by Brown for jumping on his back and trying to force him to the ground to take his phone. Under cross-examination, Officer Ramirez stated that Brown further told the police that, after Estrada knocked him to the ground, appellant picked up the phone and ran away with it. Brown "positively identified" appellant as the person who took the phone.

On April 30, 2010, appellant filed a motion to suppress evidence pursuant to Welfare and Institutions Code section 700.1. He contended that the field identification was "flawed and overly suggestive, resulting in an invalid detention and search." At the adjudication hearing, defense counsel argued that both Brown and Pazmino identified appellant as the person who jumped on Brown's back, but this was contradicted by Officer Ramirez's testimony. The court reasoned that the inconsistencies did not indicate that the identification was overly suggestive, but it did call into question the witnesses' credibility. The court thus denied the motion, but it further indicated to the prosecution that it had questions about whether it had satisfied its burden of proof.

At the close of the hearing, defense counsel moved to dismiss for a lack of sufficient evidence. The court indicated its inclination to grant the motion, stating that the two civilian witnesses “clearly got it wrong in terms of who was there at the scene.” After further discussion, the court stated that there was still a problem with the proof that appellant committed the robbery, took the matter under submission, and continued it to the following day.

On May 6, 2010, the court allowed more argument from both counsel. Defense counsel argued that the evidence only established “grand theft person because the other youth assaulted the victim, and when the victim was assaulted, he dropped his cell phone, and my client admits that he picked up the phone and ran away. He didn’t admit that he was working together with the other youth to use the force that was used by the other youth to steal the phone. He didn’t admit that he had a specific intent to have the other youth assault this guy so that he could steal the phone.”

The prosecution argued that, by taking the victim’s phone, appellant was a perpetrator of the robbery. She relied on *People v. Cook* (1998) 61 Cal.App.4th 1364, 1369, which explained that “the criminal liability of an aider and abettor is the same as that of a direct perpetrator,” even though the required mental states differ.

After considering the arguments, the juvenile court found the robbery allegations of the April 13, 2010 petition to be true and sustained the petition. The court dismissed the vandalism petition. Appellant filed a timely notice of appeal.

After review of the record, appellant’s court-appointed counsel filed an opening brief requesting this court to review the record independently pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On September 29, 2010, we advised appellant that he had 30 days within which to submit any contentions or issues that he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied that no arguable issues exist, and that appellant has, by virtue of counsel’s compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the

judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

MANELLA, J.